

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT LEE HATFIELD,

Defendant-Appellant.

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UNPUBLISHED

May 27, 2014

No. 315086

Emmet Circuit Court

LC No. 12-003624-FH

Before: BECKERING, P.J., and RONAYNE KRAUSE and BOONSTRA, JJ.

PER CURIAM.

Defendant, Robert Lee Hatfield, pleaded guilty to operating a motor vehicle while intoxicated, third offense, MCL 257.625(1) and (9)(c). The trial court sentenced defendant as a second habitual offender, MCL 769.10, to 30 to 90 months' imprisonment. Defendant appeals by delayed leave granted, and we affirm.

In February 2012, defendant was driving home with his girlfriend when, while passing an oncoming police patrol car, he drifted toward the centerline. After passing the patrol car, defendant partially crossed the centerline. Because of defendant's erratic driving, the officers turned around and initiated a traffic stop. When the officers asked defendant why he crossed the centerline, defendant told them that his steering column was loose. Defendant initially denied that he had been drinking that evening. However, during a subsequent field sobriety test, defendant admitted that he had consumed two beers. Thereafter, the officers asked defendant to submit to a preliminary breath test (PBT), but he refused. The officers took defendant to the hospital to have a blood test performed. The results of the blood test revealed that defendant's blood alcohol content was 0.16 grams of alcohol per 100 milliliters of blood, which is twice the legal limit.

On appeal, defendant challenges the trial court's scoring decisions under offense variable (OV) 9, MCL 777.39 and OV 19, MCL 777.49. In calculating defendant's sentence, the trial court scored ten points under OV 9 and ten points under OV 19. "Under the sentencing guidelines, the circuit court's factual determinations are reviewed for clear error and must be supported by a preponderance of the evidence." *People v Hardy*, 494 Mich 430, 438; 835 NW2d 340 (2013). "Whether the facts, as found, are adequate to satisfy the scoring conditions prescribed by statute, i.e., the application of the facts to the law, is a question of statutory interpretation, which an appellate court reviews de novo." *Id.*

OV 9 addresses the number of victims. MCL 777.39(1). The trial court must score ten points under OV 9 if two to nine victims were placed in danger of physical injury or death. MCL 777.39(1)(c). Each person who was placed in danger of physical injury or loss of life is considered a victim for purposes of OV 9. MCL 777.39(2)(a); *People v Morson*, 471 Mich 248, 262; 685 NW2d 203 (2004). Here, defendant placed his girlfriend and the two police officers in danger of physical injury or death when he veered toward the centerline at the precise moment that the officers' patrol car passed by in the oncoming lane.<sup>1</sup> It is axiomatic that a driver can cause a motor vehicle accident when he veers across the centerline while intoxicated. It is equally axiomatic that a motor vehicle accident can cause physical injury or death. Accordingly, the trial court did not err in scoring OV 9 at ten points. Such a score was supported by a preponderance of the evidence. *Hardy*, 494 Mich at 438.

OV 19 addresses interference with the administration of justice. MCL 777.49. The trial court must score ten points under OV 19 if the defendant "interfered with or attempted to interfere with the administration of justice[.]" MCL 777.49(c). "[T]he plain and ordinary meaning of 'interfere with the administration of justice' for purposes of OV 19 is to oppose so as to hamper, hinder, or obstruct the act or process of administering judgment of individuals or causes by judicial process." *People v Hershey*, 303 Mich App 330, 343; 844 NW2d 127 (2013). In assessing points under OV 19, a court may consider the defendant's conduct after the completion of the sentencing offense. *People v Smith*, 488 Mich 193, 200; 793 NW2d 666 (2010). Interference or attempted interference with the administration of justice includes interference with law enforcement officers, such as providing a false name to police officers during a traffic stop. *People v Barbee*, 470 Mich 283, 287-288; 681 NW2d 348 (2004).

In this case, defendant interfered with the administration of justice by lying to police officers. See *id.* For instance, the Presentence Investigation Report reveals that defendant lied to the officers by telling them that the reason he crossed the centerline was because his steering column was loose. He also lied when he told the officers that he had not been drinking. It can be inferred that the reason defendant lied was to deceive the officers and to prevent incriminating evidence from coming to light. See *People v Loper*, 299 Mich App 451, 460; 830 NW2d 836 (2013) (explaining that the trial court may rely on reasonable inferences from the record evidence when scoring offense variables). Defendant's "actions ultimately constituted fabrications that were self-serving attempts at deception obviously aimed at leading police investigators astray . . . ." *People v Ericksen*, 288 Mich App 192, 204; 793 NW2d 120 (2010). Accordingly, the trial court did not err in scoring OV 19 at ten points.<sup>2</sup> Such a score was supported by a preponderance of the evidence. *Hardy*, 494 Mich at 438.

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<sup>1</sup> As correctly noted by the prosecution, defendant's girlfriend was a victim pursuant to the statute even if she did not feel like one.

<sup>2</sup> Defendant speculates that the trial court scored ten points under OV 19 based on his refusal to submit to a PBT. Because defendant did not object to the scoring of OV 19 before the trial court, it is unclear upon which facts the trial court based its scoring decision. Regardless, as discussed above, defendant's decision to lie to the police about the reason for crossing the centerline and

Because the trial court did not err when it scored OV 9 and 19, we reject defendant's attendant argument that his counsel was ineffective for failing to object to the trial court's scoring decisions. "Failing to advance a meritless argument or raise a futile objection does not constitute ineffective assistance of counsel." *Ericksen*, 288 Mich App at 201.

Affirmed.

/s/ Jane M. Beckering  
/s/ Amy Ronayne Krause  
/s/ Mark T. Boonstra

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about whether he had been drinking independently established an interference with the administration of justice for purposes of OV 19. Thus, even if the trial court scored OV 19 on the basis of defendant's refusal to take a PBT, and even if this amounted to error, such error would be harmless.